

Adopted	Rejected
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COMMITTEE REPORT

YES:	7
NO:	2

MR. SPEAKER:

Your Committee on Public Health, to which was referred Senate Bill 143, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 2, delete lines 9 through 42 and insert "[EFFECTIVE JULY 1,
- 2 2008]: **Sec. 11.4. (a) This section applies after January 1, 2009.**
- 3 **(b) Subject to subsection (d), not more than sixty (60) days after**
- 4 **the enrollment of a child who is at least nine (9) months of age in a**
- 5 **child care program, a provider shall obtain from the parent or**
- 6 **guardian of the child documentation of a blood lead level test of the**
- 7 **child.**
- 8 **(c) Subject to subsection (d), if a child is enrolled in a child care**
- 9 **program before the child is nine (9) months of age, the provider**
- 10 **shall obtain from the parent or guardian of the child**
- 11 **documentation of a blood lead level test of the child performed**
- 12 **during the period beginning on the date the child becomes nine (9)**
- 13 **months of age and ending on the date the child becomes fourteen**
- 14 **(14) months of age.**
- 15 **(d) A parent or guardian is not required to obtain or furnish**

documentation of a child's blood lead level test if the parent or guardian gives the provider a written:

- (1) objection for religious reasons; or
- (2) statement from a physician stating the child should not have the blood lead level test for medical reasons.

SECTION 6. IC 12-17.2-3.5-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a provider that operates a child care program in a building that was built before 1978 shall:

- (1) ensure that the part of the building that is occupied by children is evaluated by means of:**

- (A) an initial risk assessment not later than December 31, 2011; and**

- (B) a clearance examination at least every three (3) years after December 31, 2011;**

by a person who is licensed under IC 13-17-14; and

- (2) if a lead hazard is found:**

- (A) keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination; and**

- (B) notify the parent or guardian of the child that a lead hazard is being remediated.**

(c) A provider described in subsection (b) is not required to comply with subsection (b) if:

- (1) the provider has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and**

- (2) one (1) of the following applies:**

- (A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.**

- (B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.**

(d) A provider shall ensure that at least one (1) individual who is employed at the facility where the provider operates a child care program:

(1) attends training concerning lead hazards that:

(A) includes lead-based paint rules awareness; and

(B) is approved or developed by the state department of health; and

(2) does the following:

(A) Provides current lead hazard education to parents, guardians, caregivers, and employees at the facility where the provider operates a child care program.

(B) Maintains current knowledge concerning product recalls related to lead hazards.

(C) Performs regular child care program facility assessments to identify lead hazards.

(D) Acts to remove or remediate any lead hazards from the child care program facility.

(e) An employee at the facility where the operator operates a child care program who performs the employee's duties under subsection (d) in good faith and the provider that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 7. IC 12-17.2-4-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. A license may not be denied or suspended if a child care center is making a good faith effort to comply with the requirements under sections 18.2 and 18.3 of this chapter.**

SECTION 8. IC 12-17.2-4-18.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.2. (a) This section applies after January 1, 2009.**

(b) Subject to subsection (d), not more than sixty (60) days after the enrollment of a child who is at least nine (9) months of age at a child care center, the child care center shall obtain from the parent or guardian of the child documentation of a blood lead level

1 test of the child.

2 (c) Subject to subsection (d), if a child is enrolled at a child care
3 center before the child is nine (9) months of age, the child care
4 center shall obtain from the parent or guardian of the child
5 documentation of a blood lead level test of the child performed
6 during the period beginning on the date the child becomes nine (9)
7 months of age and ending on the date the child becomes fourteen
8 (14) months of age.

9 (d) A parent or guardian is not required to obtain or furnish
10 documentation of a child's blood lead level test if the parent or
11 guardian gives the child care center a written:

- 12 (1) objection for religious reasons; or
- 13 (2) statement from a physician stating the child should not
14 have the blood lead level test for medical reasons.

15 SECTION 9. IC 12-17.2-4-18.3 IS ADDED TO THE INDIANA
16 CODE AS A NEW SECTION TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2008]: **Sec. 18.3. (a) This section applies after**
18 **July 1, 2011.**

19 (b) Except as provided in subsection (c), a child care center that
20 is located in a building that was built before 1978 shall:

21 (1) ensure that the part of the building that is occupied by
22 children is evaluated by means of:

23 (A) an initial risk assessment not later than December 31,
24 2011; and

25 (B) a clearance examination at least every three (3) years
26 after December 31, 2011;

27 by a person who is licensed under IC 13-17-14; and

28 (2) if a lead hazard is found:

29 (A) keep children out of the area with the lead hazard until
30 the lead hazard is remediated and the area is demonstrated
31 to be lead hazard free through a clearance examination;
32 and

33 (B) notify the parent or guardian of the child that a lead
34 hazard is being remediated.

35 (c) A child care center is not required to comply with subsection
36 (b) if:

37 (1) the child care center has a lead-based paint inspection
38 conducted under IC 13-17-14 with respect to the part of the

1 **building that is occupied by children; and**

2 **(2) one (1) of the following applies:**

3 **(A) The lead-based paint inspection results indicate that no**
 4 **lead-based paint exists in the part of the building that is**
 5 **occupied by children.**

6 **(B) Abatement of any lead-based paint hazard that existed**
 7 **in the part of the building that is occupied by children has**
 8 **occurred.**

9 **(d) A child care center shall ensure that at least one (1)**
 10 **employee of the child care center:**

11 **(1) attends training concerning lead hazards that:**

12 **(A) includes lead-based paint rules awareness; and**

13 **(B) is approved or developed by the state department of**
 14 **health; and**

15 **(2) does the following:**

16 **(A) Provides current lead hazard education to parents,**
 17 **guardians, caregivers, and child care center employees.**

18 **(B) Maintains current knowledge concerning product**
 19 **recalls related to lead hazards.**

20 **(C) Performs regular child care center facility assessments**
 21 **to identify lead hazards.**

22 **(D) Acts to remove or remediate any lead hazards from the**
 23 **child care center facility.**

24 **(e) An employee of a child care center who performs the**
 25 **employee's duties under subsection (d) in good faith and the child**
 26 **care center that employs the employee are immune from civil**
 27 **liability related to the performance of the duties. This subsection**
 28 **does not apply to an act or omission that amounts to gross**
 29 **negligence or willful or wanton misconduct.**

30 **SECTION 10. IC 12-17.2-5-2.5 IS ADDED TO THE INDIANA**
 31 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 32 **[EFFECTIVE JULY 1, 2008]: Sec. 2.5. A license may not be denied**
 33 **or suspended if a child care home is making a good faith effort to**
 34 **comply with the requirements under sections 18.3 and 18.4 of this**
 35 **chapter.**

36 **SECTION 11. IC 12-17.2-5-18.3 IS ADDED TO THE INDIANA**
 37 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 38 **[EFFECTIVE JULY 1, 2008]: Sec. 18.3. (a) This section applies after**

1 **January 1, 2009.**

2 **(b) Subject to subsection (d), not more than sixty (60) days after**
 3 **the enrollment of a child who is at least nine (9) months of age in a**
 4 **child care home, the child care home shall obtain from the parent**
 5 **or guardian of the child documentation of a blood lead level test of**
 6 **the child.**

7 **(c) Subject to subsection (d), if a child is enrolled at a child care**
 8 **home before the child is nine (9) months of age, the child care home**
 9 **shall obtain from the parent or guardian of the child**
 10 **documentation of a blood lead level test of the child performed**
 11 **during the period beginning on the date the child becomes nine (9)**
 12 **months of age and ending on the date the child becomes fourteen**
 13 **(14) months of age.**

14 **(d) A parent or guardian is not required to obtain or furnish**
 15 **documentation of a child's blood lead level test if the parent or**
 16 **guardian gives the child care home a written:**

- 17 **(1) objection for religious reasons; or**
 18 **(2) statement from a physician stating the child should not**
 19 **have the blood lead level test for medical reasons.**

20 **SECTION 12. IC 12-17.2-5-18.4 IS ADDED TO THE INDIANA**
 21 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 22 **[EFFECTIVE JULY 1, 2008]: Sec. 18.4. (a) This section applies after**
 23 **July 1, 2011.**

24 **(b) Except as provided in subsection (c), a child care home that**
 25 **is located in a building that was built before 1978 shall:**

26 **(1) ensure that the part of the building that is occupied by**
 27 **children is evaluated by means of:**

28 **(A) an initial risk assessment not later than December 31,**
 29 **2011; and**

30 **(B) a clearance examination at least every three (3) years**
 31 **after December 31, 2011;**

32 **by a person who is licensed under IC 13-17-14; and**

33 **(2) if a lead hazard is found:**

34 **(A) keep children out of the area with the lead hazard until**
 35 **the lead hazard is remediated and the area is demonstrated**
 36 **to be lead hazard free through a clearance examination;**
 37 **and**

38 **(B) notify the parent or guardian of the child that a lead**

1 hazard is being remediated.

2 (c) A child care home is not required to comply with subsection

3 (b) if:

4 (1) the child care home has a lead-based paint inspection
5 conducted under IC 13-17-14 with respect to the part of the
6 building that is occupied by children; and

7 (2) one (1) of the following applies:

8 (A) The lead-based paint inspection results indicate that no
9 lead-based paint exists in the part of the building that is
10 occupied by children.

11 (B) Abatement of any lead-based paint hazard that existed
12 in the part of the building that is occupied by children has
13 occurred.

14 (d) A child care home shall ensure that at least one (1) employee
15 of the child care home:

16 (1) attends training concerning lead hazards that:

17 (A) includes lead-based paint rules awareness; and

18 (B) is approved or developed by the state department of
19 health; and

20 (2) does the following:

21 (A) Provides current lead hazard education to parents,
22 guardians, caregivers, and child care home employees.

23 (B) Maintains current knowledge concerning product
24 recalls related to lead hazards.

25 (C) Performs regular child care home facility assessments
26 to identify lead hazards.

27 (D) Acts to remove or remediate any lead hazards from the
28 child care home facility.

29 (e) An employee of a child care home who performs the
30 employee's duties under subsection (d) in good faith and the child
31 care home that employs the employee are immune from civil
32 liability related to the performance of the duties. This subsection
33 does not apply to an act or omission that amounts to gross
34 negligence or willful or wanton misconduct.

35 SECTION 13. IC 12-17.2-4-2.5 IS ADDED TO THE INDIANA
36 CODE AS A NEW SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. A license or registration may**
38 **not be denied or suspended if a child care ministry is making a**

1 **good faith effort to comply with the requirements under sections**
 2 **16 and 17 of this chapter.**

3 SECTION 14. IC 12-17.2-6-16 IS ADDED TO THE INDIANA
 4 CODE AS A NEW SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2008]: **Sec. 16. (a) This section applies after**
 6 **January 1, 2009.**

7 **(b) Subject to subsection (d), not more than sixty (60) days after**
 8 **the enrollment of a child who is at least nine (9) months of age in a**
 9 **child care ministry, the child care ministry shall obtain from the**
 10 **parent or guardian of the child documentation of a blood lead level**
 11 **test of the child.**

12 **(c) Subject to subsection (d), if a child is enrolled at a child care**
 13 **ministry before the child is nine (9) months of age, the child care**
 14 **ministry shall obtain from the parent or guardian of the child**
 15 **documentation of a blood lead level test of the child performed**
 16 **during the period beginning on the date the child becomes nine (9)**
 17 **months of age and ending on the date the child becomes fourteen**
 18 **(14) months of age.**

19 **(d) A parent or guardian is not required to obtain or furnish**
 20 **documentation of a child's blood lead level test if the parent or**
 21 **guardian gives the child care ministry a written:**

22 **(1) objection for religious reasons; or**

23 **(2) statement from a physician stating the child should not**
 24 **have the blood lead test for medical reasons.**

25 SECTION 15. IC 12-17.2-6-17 IS ADDED TO THE INDIANA
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2008]: **Sec. 17. (a) This section applies after**
 28 **July 1, 2011.**

29 **(b) Except as provided in subsection (c), a child care ministry**
 30 **that is located in a building that was built before 1978 shall:**

31 **(1) ensure that the part of the building that is occupied by**
 32 **children is evaluated by means of:**

33 **(A) an initial risk assessment not later than December 31,**
 34 **2011; and**

35 **(B) a clearance examination at least every three (3) years**
 36 **after December 31, 2011;**

37 **by a person who is licensed under IC 13-17-14; and**

38 **(2) if a lead hazard is found:**

1 (A) keep children out of the area with the lead hazard until
2 the lead hazard is remediated and the area is demonstrated
3 to be lead hazard free through a clearance examination;
4 and

5 (B) notify the parent or guardian of the child that a lead
6 hazard is being remediated.

7 (c) A child care ministry is not required to comply with
8 subsection (b) if:

9 (1) the child care ministry has a lead-based paint inspection
10 conducted under IC 13-17-14 with respect to the part of the
11 building that is occupied by children; and

12 (2) one (1) of the following applies:

13 (A) The lead-based paint inspection results indicate that no
14 lead-based paint exists in the part of the building that is
15 occupied by children.

16 (B) Abatement of any lead-based paint hazard that existed
17 in the part of the building that is occupied by children has
18 occurred.

19 (d) A child care ministry shall ensure that at least one (1)
20 employee of the child care ministry:

21 (1) attends training concerning lead hazards that:

22 (A) includes lead-based paint rules awareness; and

23 (B) is approved or developed by the state department of
24 health; and

25 (2) does the following:

26 (A) Provides current lead hazard education to parents,
27 guardians, caregivers, and child care ministry employees.

28 (B) Maintains current knowledge concerning product
29 recalls related to lead hazards.

30 (C) Performs regular child care ministry facility
31 assessments to identify lead hazards.

32 (D) Acts to remove or remediate any lead hazards from the
33 child care ministry facility.

34 (e) An employee of a child care ministry who performs the
35 employee's duties under subsection (d) in good faith and the child
36 care ministry that employs the employee are immune from civil
37 liability related to the performance of the duties. This subsection
38 does not apply to an act or omission that amounts to gross

- 1 **negligence or willful or wanton misconduct."**
- 2 Delete pages 3 through 5.
- 3 Page 6, delete lines 1 through 40.
- 4 Page 8, line 3, strike "IC 16-41-42," and insert "**IC 16-41-42.2**,".
- 5 Page 8, line 4, strike "IC 16-41-42-2." and insert "**IC 16-41-42.2-2**,".
- 6 Page 8, line 5, delete "IC 16-18-2-198.5" and insert "IC
- 7 16-18-2-198.7".
- 8 Page 8, line 7, delete "198.5." and insert "**198.7**,".
- 9 Page 11, between lines 32 and 33, begin a new line double block
- 10 indented and insert:
- 11 **"(P) A child care provider."**
- 12 Page 12, line 6, after "assist" insert "**child care and**".
- 13 Page 12, between lines 19 and 20, begin a new line double block
- 14 indented and insert:
- 15 **"(8) The content of a basic lead training course for child care**
- 16 **workers concerning lead hazards that:**
- 17 **(A) includes lead-based paint rules awareness; and**
- 18 **(B) includes information concerning how the course should**
- 19 **be made available to child care workers."**
- 20 Page 13, line 19, after "law;" delete "or" and insert "**and**".
- 21 Page 14, delete lines 27 through 42 and insert:
- 22 "SECTION 32. IC 16-41-39.4-10 IS ADDED TO THE INDIANA
- 23 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 24 [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) If the state department**
- 25 **or a local health department determines, based on an**
- 26 **environmental investigation, that lead hazards in a housing unit**
- 27 **have caused or contributed to elevated blood lead levels in an**
- 28 **individual, the owner of the housing unit shall submit a**
- 29 **remediation plan to the state department or local health**
- 30 **department for approval.**
- 31 **(b) The remediation plan required under subsection (a) must**
- 32 **include a plan for:**
- 33 **(1) a clearance examination after remediation activities are**
- 34 **complete; and**
- 35 **(2) subsequent annual clearance examinations.**
- 36 **(c) Regardless of whether the plan states that the housing unit**
- 37 **will not be occupied by families with children, the state department**
- 38 **or local health department may not approve a remediation plan**

1 that does not provide for remediation of the lead hazards.

2 (d) Not later than ninety (90) days after approval of a
3 remediation plan submitted under this section, the owner of a
4 housing unit shall complete the remediation. However, the state
5 department or local health department may grant the property
6 owner an extension of time if the property owner demonstrates
7 that the work cannot reasonably be completed within ninety (90)
8 days and will be completed as expeditiously as possible.

9 (e) The owner of a rental unit for which a remediation plan is
10 required shall do the following:

11 (1) Relocate tenants of the rental unit to a lead-safe dwelling
12 at the owner's expense until the lead hazards in the rental unit
13 have been remediated. However, a tenant may remain in the
14 rental unit if:

15 (A) the remediation plan uses lead-safe work practices;
16 and

17 (B) the owner documents to the state department or local
18 health department that the workers designated to make the
19 necessary repairs have been:

20 (i) licensed under IC 13-17-14 to use lead-safe work
21 practices; or

22 (ii) properly trained in the federal Department of
23 Housing and Urban Development Lead Safe Housing
24 Rule requirements for lead safe work practices training
25 (24 CFR 53.1330(a)(4)).

26 (2) Offer to relocate a tenant if the tenant is expected to be
27 without the use of a bathroom or kitchen in the rental unit for
28 more than eight (8) hours, and relocate a tenant who accepts
29 the offer.

30 An owner's obligation to relocate a tenant under this subsection
31 ends on the earlier of the date that remediation of the lead hazard
32 is completed or the date that the rental agreement expires. The
33 tenant is required to continue to make rental payments under the
34 original rental agreement while the tenant is relocated under this
35 subsection.

36 (f) The owner of a rental unit may not evict a tenant or change
37 the terms of a tenant's lease in retaliation for the tenant's report to
38 a governmental agency related to the presence of lead hazards on

1 **the property. An owner is taking retaliatory action if the owner,**
 2 **during the term of the rental agreement and without cause:**

3 **(1) initiates eviction proceedings;**

4 **(2) increases the rent; or**

5 **(3) makes other changes to the rental agreement.**

6 **(g) This section does not apply to residential property owned by**
 7 **a state educational institution.".**

8 Delete pages 15 through 16.

9 Page 17, delete lines 1 through 7.

10 Page 17, delete lines 15 through 19, begin a new paragraph and
 11 insert:

12 "SECTION 34. [EFFECTIVE JULY 1, 2008] **The division of**
 13 **family resources established by IC 12-13-1-1 shall, not later than**
 14 **January 1, 2010, adopt rules under IC 4-22-2 to implement**
 15 **IC 12-17.2-3.5-11.5, IC 12-17.2-4-18.3, IC 12-17.2-5-18.4, and**
 16 **IC 12-17.2-6-17, all as added by this act.**

17 SECTION 35. [EFFECTIVE UPON PASSAGE] **(a) The legislative**
 18 **council shall assign to a study committee during the 2008 interim**
 19 **the responsibility to examine issues concerning civil procedures**
 20 **and liability in tort actions brought by consumers who are injured**
 21 **by a banned hazardous substance in a consumer product.**

- 1 **(b) This SECTION expires December 31, 2008.**
- 2 **SECTION 36. An emergency is declared for this act."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to SB 143 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Representative Brown C